



The Comptroller General
of the United States

Washington, D.C. 20548

Ruppert

Decision

Matter of: American Seating Company

File: B-224487

Date: July 30, 1986

DIGEST

Contracting agency need not apply a Buy American Act evaluation factor to an offer for a product manufactured in Germany, since that country is designated under the Trade Agreements Act of 1979, and agencies must solicit and evaluate offers for products manufactured in such countries in the same manner as domestic products.

DECISION

American Seating Company protests the award of a contract to Source International, Inc. for various quantities of desk chairs and rotary drafting chairs. The General Services Administration (GSA), Federal Supply Service, made the award under solicitation No. FCNO-S7-1968-N-3-12-86, issued February 12, 1986.

American states that it offered a product manufactured in the United States at a unit price of \$193.06, while Source International offered a German product at a price of \$159. American contends that under the Buy American Act, 41 U.S.C. §§ 10a-10d (1982), and implementing regulations, its product should have been accorded an evaluation preference since it is domestic. American cites the Federal Acquisition Regulation (FAR), 48 C.F.R. §§ 25.303(b) and 52.225-3 (1985), in arguing that the unit price of Source International should be increased by 50 percent to \$238. If this were done, American would be the low offeror.

As GSA advised the firm in response to an agency-level protest, the solicitation referenced the Trade Agreements Act of 1979, 19 U.S.C. §§ 2501-2582 (1982). This Act provides that offers for eligible products from designated foreign countries must be solicited and evaluated in the same manner as offers for domestic products. The Federal Republic of Germany is a designated foreign country. See FAR, 48 C.F.R. § 25.401. The solicitation also specifically indicated that the provisions of the Buy American Act-Supplies clause do not apply to contracts involving eligible products from designated countries when the award price for the product is \$156,000 or more.

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GSA here has advised our Office that the amount of the protested contract is \$190,402. Therefore, the Buy American Act and the implementing regulations are not applicable. Since the procurement was subject to the Trade Agreements Act and the amount of the contract exceeded \$156,000, GSA properly did not apply an evaluation preference to Source's unit price of \$159. See Presto Lock, Inc., B-218766, Aug. 16, 1985, 85-2 CPD ¶ 183.

We dismiss the protest.

Ronald Berger

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